



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

NO PROTEST RECEIVED

Release to Manager, EO Determinations - Cincinnati

Date: [REDACTED]

Contact Person: [REDACTED]

Identification Number: [REDACTED]

Contact Number: [REDACTED]

Employer Identification Number: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(15). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The bases for our conclusions are set forth below.

You were incorporated under the laws of [REDACTED]. Your stated purpose is to engage in business as a commercial insurance company offering the following line of insurance products:

- (a) Against loss or damage by fire, lightning, cyclone, tornado, hail, or theft.
- (b) Against the risks of inland navigation and transportation.
- (c) Against accidental injuries including the granting, purchasing and paying of annuities and indemnities.
- (d) To transact fidelity insurance and corporate suretyship.
- (e) Upon automobiles covering in one policy or in separate policies fire, theft, property damage, liability, and collision insurance.
- (f) Covering any other hazard not specifically prohibited by the laws of this state as a subject of insurance.
- (g) Against legal expense.

You state that until recently, you were not active. For a number of years you were developing programs on a group casualty basis for members of affinity programs. In that regard you have received North Dakota Insurance Department approval for a number of policies. The

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[REDACTED]

best way to offer the insurance protection to the members of the affinity programs is currently being developed and it is expected that a delivery method will be available in the near future. Currently the vast majority of your effort is involved in developing and deploying a set of procedures and methods for the casualty insurance that you offer. You devote the remaining portion of your resources to matters related to administration.

You state that you are self-supporting and that you have historically relied on interest on your portfolio to pay the costs of operation. Once the premium based insurance products are offered, you may have an additional source of income.

You initially indicated that you had \$[REDACTED] in direct written premiums for the year [REDACTED] through [REDACTED].

In response to a request for supplemental information, you stated that as of the present date, you have not issued any insurance policies but you have received authorization from the [REDACTED] to issue a number of policies. You say that marketing of these policies is still being explored. Also, your Annual Statement for the year ending [REDACTED], reflects no prior insurance activity. It was noted that "The Company had no premium income in [REDACTED] and no incurred claims. The Company does not currently have plans to issue or assume new business in the immediate near future; but plans to by the end of [REDACTED] or early [REDACTED]."

Section 501(c)(15) of the Code provides for the exemption from federal income tax of insurance companies or associations other than life if the net premiums (or if greater, direct written premiums) for the taxable year do not exceed \$350,000.

Insurance companies other than life insurance companies are taxed under section 831 of the Code. Section 1.831-3(a) of the Income Tax Regulations states that for purposes of sections 831 and 832, the term "insurance companies" means only those companies that qualify as insurance companies under the former section 1.801-1(b) of the regulations (now section 1.801-3(a)(1) of the regulations).

Section 1.801-3(a)(1) of the regulations states that the term "insurance company" means a company whose primary and predominant business activity during the taxable year is the issuing of insurance or annuity contracts or the reimbursing of risks underwritten by insurance companies. See also, Bowers v. Lawyers Mortgage Co., 285 U.S. 182, 188 (1932), and Industrial Life Insurance Co. v. U. S., 344 F. Supp. 870 (D. S.C. 1972), aff'd, 481 F. 2d 609 (5th Cir. 1972).

In order to qualify for exemption under section 501(c)(15) of the Code, you must be an insurance company as described in section 1.801-3(a)(1) of the regulations, supra. Information submitted indicates that your primary and predominant activity has been, and, continues to be, the passive activity of generating investment income from your portfolio. While the generation of investment income is ordinarily an integral part of an insurance business, in that it ensures that a company will be able to pay claims and allows the company to reduce the amount it charges for premiums (See, Massachusetts Mutual Life Ins. Co. v. United States, 5 Cl. Ct. 581, 590

[REDACTED]

(1984)), your investment activity is distinguishable because your primary and predominant business activity during your years of existence has not been the issuing of insurance or annuity contracts or the reinsuring of risks underwritten by insurance companies. Thus, it cannot be said that your primary and predominant investment activities over the years have been an integral part of an insurance business. Therefore, you do not qualify as an insurance company within the meaning of section 1.801-3(a)(1) of the regulations and you are not described in section 501(c)(15) of the Code.

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(15) of the Code and you must file federal income tax returns.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
T:EO:RA:T:3 JC
1111 Constitution Ave, N.W.
Washington, D.C. 20224

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

[REDACTED]
[REDACTED]
Manager, Exempt Organizations
[REDACTED]

[REDACTED]

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